

Internal Revenue Service

Department of the Treasury

District
Director

Delaware-Maryland District

31 Hopkins Plaza, Baltimore, MD 21201

Person to Contact:

Contact Telephone Number:

In Reply Refer to:

Date: NOV - 1 1999

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

You incorporated in [REDACTED] as a charitable or religious corporation [REDACTED]

Article II of your Constitution states the purpose is: to provide a forum for [REDACTED] to promote human rights, social justice, lasting peace and alleviation of human suffering. Every five years general members at the annual general meeting decide which area of the world is the focus of [REDACTED] with an initial region of focus being [REDACTED], to document the conflicts, identify solutions, conduct seminars, raise and facilitate aid to the victims, and public relations.

The activities of the organization are:

- The distribution of videos of [REDACTED]. The copies were sent to legislators and news-organizations, in order to bring about awareness of the refugee crisis.
- Letter writing campaign to legislators and [REDACTED] urging to bring about a negotiated settlement to the ethnic conflict engulfing [REDACTED].
- Letters urging Senators to work for improving race relations in America.
- The distribution of copies of the [REDACTED] report to all libraries in [REDACTED].

- The distribution of copies of the [REDACTED] administration, Senators, Congressman, libraries and US executive and legislative branches,
- Letter writing campaign to legislators and Clinton Administration urging them to be involved in the investigation of [REDACTED].
- The organization of a [REDACTED] to increase the number of minorities in [REDACTED] and donated a wheel chair to a victim of [REDACTED].
- You have sponsored [REDACTED] and acquired prosthetic devices for victims of land mines.
- You have collected and sent fund to flood victims of [REDACTED].

Income is derived from contributions, sales and membership dues and expended for donations to foreign organizations, a lobbying organization and fundraising.

Section 501(c)(3) of the Internal Revenue Code provides for exemption from Federal income tax for organizations which are organized and operated exclusively for charitable, religious, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to qualify for exemption under section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. Failure to meet either the organizational or operational test will disqualify an organization from exemption under section 501(c)(3).

Section 1.501(c)(3)-1(b)(4) of the Regulations provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose.

Section 1.501(c)(3)-1(c)(1) of the Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish such purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Thus, in construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau v. United States, 326 U.S. 279 (1945), the Supreme Court of the United States stated, "This plainly means that the presence of a single non-educational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes."

Section 1.501(c)(3)-1(c)(3) of the Income Tax Regulations provides that an organization is not operated exclusively for one or more exempt purposes if it is an "action" organization.

Subdivision (ii) states that an organization is an "action" organization if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise. An organization will be regarded as attempting to influence legislation if it:

- (a) Contacts, or urges the public to contact members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or
- (b) Advocates the adoption or rejection of legislation.

Under subdivision (iv), an organization is an "action" organization if it has the following two characteristics: (a) Its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public. All the relevant facts and circumstances will be considered in determining whether an organization has such characteristics.

Subdivision (v) states that an "action" organization, as described above, though it cannot qualify for exemption under section 501(c)(3), may nevertheless qualify as a social welfare organization under section 501(c)(4), if it meets the requirements set out in section 1.501(c)(4)-1(a) of the Regulations.

Income Tax Regulations 56.4911-2 defines "*direct lobbying communication*" and "*grass roots lobbying communication*". Paragraph (b)(1) of this section defines the term "direct lobbying communication." Paragraph (b)(2) of this section provides the general definition of the term "grass roots lobbying communication." Paragraph (b)(4) of this section contains numerous examples illustrating the application of paragraphs (b)(1) and (2).

- *Direct lobbying communication.* A direct lobbying communication is any attempt to influence any legislation through communication with:

(A) Any member or employee of a legislative body; or

(B) Any government official or employee (other than a member or employee of a legislative body) who may participate in the formulation of the legislation, but only if the principal purpose of the communication is to influence legislation.

(ii) *Required elements.* A communication with a legislator or government official will be treated as a direct lobbying communication under this §56.4911-2(b)(1) if, but only if, the communication:

(A) Refers to specific legislation (see paragraph (d)(1) of this section for a definition of the term "specific legislation"); and

(B) Reflects a view on such legislation.

(iii) *Special rule for referenda, ballot initiatives or similar procedures.* Solely for purposes of this section 4911, where a communication refers to and reflects a view on a measure that is the subject of a referendum, ballot initiative or similar procedure, the general public in the state or locality where the vote will take place constitutes the legislative body, and individual members of the general public are, for purposes of this paragraph (b)(1), legislators. Accordingly, if such a communication is made to one or more members of the general public in that state or locality, the communication is a direct lobbying communication (unless it is nonpartisan analysis, study or research (see paragraph (c)(1) of this section).

- *Grass roots lobbying communication.* A grass roots lobbying communication is any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof.

(ii) *Required elements.* A communication will be treated as grass roots lobbying communication under this §56.4911-2(b)(2)(ii) if, but only if, the communication:

(A) Refers to specific legislation (see paragraph (d)(1) of this section for a definition of the term "specific legislation");

(B) Reflects a view on such legislation; and

(C) Encourages the recipient of the communication to take action with respect to such legislation (see paragraph (b)(2)(iii) of this section for the definition of encouraging the recipient to take action).

(iii) *Definition of encouraging recipient to take action.* For purposes of this section, encouraging a recipient to take action with respect to legislation means that the communication:

- (A) States that the recipient should contact a legislator or an employee of a legislative body, or should contact any other government official or employee who may participate in the formulation of legislation (but only if the principal purpose of urging contact with the government official or employee is to influence legislation);
- (B) States the address, telephone number, or similar information of a legislator or an employee of a legislative body;
- (C) Provides a petition, tear-off postcard or similar material for the recipient to communicate with a legislator or an employee of a legislative body, or with any other government official or employee who may participate in the formulation of legislation (but only if the principal purpose of such facilitating contact with the government official or employee is to influence legislation); or
- (D) Specifically identifies one or more legislators who will vote on the legislation as: opposing the communication's view with respect to the legislation; being undecided with respect to the legislation; being the recipient's representative in the legislature; or being a member of the legislative committee or subcommittee that will consider the legislation. Encouraging the recipient to take action under this paragraph (b)(2)(iii)(D) does not include naming the main sponsor(s) of the legislation for purposes of identifying the legislation.

For purposes of section 501(c)(3) of the Code, there is no distinction between "good" legislation and "bad" legislation. This principle is illustrated by Revenue Ruling 67-293, published in Cumulative Bulletin 1967-2, on page 185, which holds that an organization that is substantially engaged in promoting legislation to protect or otherwise benefit animals is not tax exempt under Code section 501(c)(3) even though the legislation it advocates may be beneficial to the community, and even though most of the organization's attempts to influence legislation are indirect. The organization remained exempt from Federal income tax under section 501(c)(4) of the Code as a social welfare organization.

The majority of courts have held that it is not necessary or possible to distinguish between good and bad legislation. This is in accord with the traditional view dating back many years and now reinforced by a dictum of the U.S. Supreme Court to the effect that the statutory restriction on attempts to influence legislation simply "made explicit" the long standing judicial principle that "political agitation as such is outside the statute, however innocent the aim." William B. Cammarans et ux v. United States, 358 U.S. 498 (1959). See also League of Women Voters of the United States v. United States, 180 F. Supp. 379 (Ct. Cl. 1960), cert. den. 364 U.S. 822, and Alan B. Kuper v. Commissioner, 332 F. 2d 562 (3rd Cir. 1964), cert. den., 379 U.S. 920 (1964).

Revenue Ruling 73-440, Cumulative Bulletin 1973-2, on page 177, held that a nonprofit organization that attempts to influence and advocates changes in the laws of a foreign country is an "action" organization within the meaning of regulations section 1.501(c)(3)-1(c)(3) and therefore did not qualify for exemption.

A review of your application and subsequent documentation disclosed that your organization is an "action" organization. Thus it is not within the purview of section 501(c)(3) of the Code.

Although your organization has conducted some charitable activities, your primary purpose is to contact legislative bodies within the government, i.e., the [REDACTED], Congressmen, Senators, etc. to enact changes in foreign countries. The changes can not be achieved without the said individuals passing legislation. This fact is reinforced by [REDACTED], which urges individuals to contact their legislators and your "letter writing campaign".

Even though you have filed Form 5678 for your lobbying expenditures, we hold that your lobbying activities are substantial in nature thereby defeating exemption. Hence you have failed the operational test under section 501(c)(3).

You have also failed the organizational test because your assets upon dissolution do not meet the restrictive requirements of this section of the Code.

Based on the cited precedence, we hold that you are not an IRC 501(c)(3) organization and have concluded that you do not qualify for exemption from Federal income tax as an organization described as such. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

Contributions to your organization are not deductible by donors under section 170(c)(2) of the Code.

In accordance with the provisions of section 6104(c) of the Code, a copy of this letter will be sent to the appropriate State officials.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If someone who is not one of your principal officers will represent you, that person will need to file a power of attorney or tax information authorization with us.

[REDACTED]

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number is shown in the heading of this letter.

Sincerely,

Mary M. Nease

(a) District Director

Enclosure: Publication 892

cc: [REDACTED]